

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baldwin et al.
Serial No: 08/692,060
Filed: August 2, 1996
For: SUPERMICROCELLULAR FOAMED MATERIALS
Examiner: K. Thornton
Art Unit: 1744

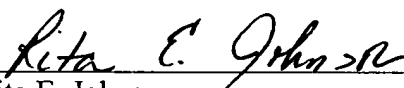
CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile transmission to: Commissioner for Patents, Washington, D.C. 20231-0002

FAX 703-308-6916

Att: John Gillon
Petitions Branch

on July 25, 2001.



Rita E. Johnson

Commissioner for Patents
Washington, D.C. 20231-0002

Sir:

**SUPPLEMENTAL OF GEORGE W. NEUNER
IN SUPPORT OF THE PETITION UNDER 37 C.F.R. §1.47(a)**

I, George W. Neuner, declare as follows:

1. I am attorney of record in the above-identified application and a partner of Edwards & Angell, LLP, 101 Federal Street, Boston, MA 02110. I represent the Massachusetts Institute of Technology, the assignee and owner of the above application.

2. The last known residential address of Chul B. Park is:

7 Walmer Road #802
Toronto, Ontario M5R2W8
Canada

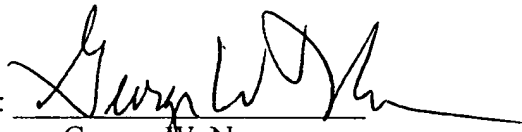
3. The last known residential address was inserted by Dr. Park on the original reissue declaration filed April 11, 1997, which was signed by him on March 2, 1997.

4. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Codes, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

25 July '01

By:


George W. Neuner
(Reg. No. 26,964)

Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL, LLP
P.O. Box 9169
Boston, MA 02209
(617) 439-4444

TRANSACTION REPORT

P. 01

JUL-25-2001 WED 01:59 PM

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
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TOTAL : 39S PAGES: 2

Attorney's Docket No. 40,535-RE (70257)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baldwin et al.
 Serial No: 08/692,060
 Filed: August 2, 1996
 For: SUPERMICROCELLULAR FOAMED MATERIALS
 Examiner: K. Thornton
 Art Unit: 1744

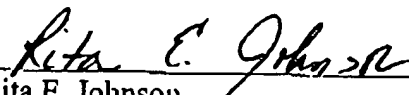
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FAX 703-308-6916

Att: John Gillon
 Petitions Branch

on July 25, 2001.


 Rita E. Johnson

Practitioner's Docket No. 70257/40535 DIV
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	D. Baldwin, et al..	EXAMINER:	K. Thornton
Serial No.:	08/934,570	Group:	1744
Filed:	August 24, 1992	Patent No.:	5,334,356
		Issued:	August 2, 1994
For:	SUPERMICROCELLULAR FOAMED MATERIALS		

Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as Express Mail (EL 789781959US) in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on August 27, 2001.

By: Barbara J. Guinness

STATEMENT UNDER 37 C.F.R. § 3.73(b)
ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION

Pursuant to 37 C.F.R. §3.73(b), the assignee of the entire right, title and interest in the above-referenced patent application hereby seeks to take action in the PTO in this matter.

IDENTIFICATION OF ASSIGNEE

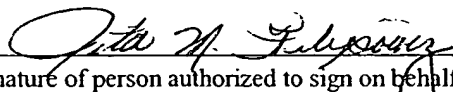
2. Massachusetts Institute of Technology
Name of assignee

University
Type of assignee, e.g., corporation, partnership, university, government agency, etc.

CHAIN OF TITLE/BASIS OF ASSIGNEE'S INTEREST

Assignee's ownership interest as of January 6, 1997 in the above-referenced patent application is established by:

(1) an assignment (a copy of which is enclosed herein) of rights in the above-referenced patent application directly from its inventors to Massachusetts Institute of Technology, this assignment having been recorded in the United States Patent and Trademark Office on June 3, 1991, at Reel 5738, Frame 0966.


Signature of person authorized to sign on behalf of assignee

8/21/01
Date of signature

Rita Filipowicz
Typed name of person authorized to sign

Patent Administrator
Technology Licensing Office,
Massachusetts Institute of Technology
Typed title of person authorized to sign

D. Baldwin
Patent No. 5,334,356
Page 3 of 3

Date: August 27, 2

By: Richard J. Roos
Richard J. Roos
Reg. No.: 45,053

Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL, LLP
P. O. Box 9169
Boston, MA 02209
Tel. No. (617) 517-5554
Fax No. (617) 439-4170

BOS2_171610.1



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JGJr.:07-01

Paper 36

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JUL 26 2001

**OFFICE OF PETITIONS
A/C PATENTS**

DIKE BRONSTEIN
ROBERTS & CUSHMAN
130 WATER STREET
BOSTON, MA 02109-4280

In re Application of
Baldwin, et al.
Application No. 08/692,060
Filed: 2 August, 1996
Attorney Docket No. 40,535-RE (70257)

DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(a)

This is a decision on the petition filed on 29 May, 2001, seeking status under 37 C.F.R. 1.47(a).¹

The petition is **GRANTED**.

NOTE: Petitioner's showing is unclear as to the requirement that the entire application (including specification, abstract, claims and drawings, with the oath or declaration) were tendered to the non-signing inventor.

However, the showing made is being read to so state.

If this reading does not conform to Petitioner's and Counsel's appreciation of the facts, their duty of candor before the Office requires that they so inform the Office.

Petitioner has shown that the non-signing inventor cannot be found or otherwise refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

¹ The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the non-signing inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the non-signing inventor. The non-signing inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in § 1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with § 1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the non-signing inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration.

Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this communication should be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703)305-9199.



John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

TRANSACTION REPORT

P. 01

JUL-26-2001 THU 10:38 AM

FOR: EDWARDS & ANGELL

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DATE	START	SENDER	RX TIME(L)	PAGES	TYPE	NOTE	M#	DP
JUL-26	10:35 AM		2' 53" (2)	3	RECEIVE	OK		

Mailing Date: 8/27/01
Client: 70257
Inventors: Baldwin, et al.
Serial No.: 08/692,060
Filing Date: 8/2/96

Attorney/Sec: RJR/GWN/baj
Docket No.: 40535 RE

Patent No.:
Grant Date:

The dating stamp of the Patent and Trademark Office hereon will be taken as the date of filing of:
Letter to Ex. Thornton including: (1) Petition for Revival of
Application for Patent Unintentionally Abandoned, check in the
amount of \$1,240; (2) Resubmission of Assent by Assignee for
Filing Reissue App.; (3) Resubmission of Statement Establishing
Right of Assignee; (4) Copy of Surrender of Original Letters
Patent; (5) Response to Advisory Action; (6) Copy of Petition to
Accept a reissue application w/o signature of one inventor with
Declaration of K. Okamoto and T. Oyer; (7) CPA Application w/
copy of Amendment filed 10/18/00 with check in the amount of
\$962.00
Due Date:

Express Mail: EL 789781959

COMMISSION Commissioner of Patents & Trademarks

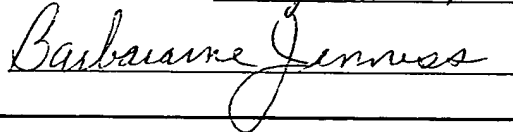
Invoice No.	Invoice Date	Description	Invoice Amount	Discount	Payment Amount
70257.40535RE	08/24/2001	for PTO code 141	\$1,240.00	\$0.00	\$1,240.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baldwin et al.
Serial No: 08/692,060
Filed: August 2, 1996
For: SUPERMICROCELLULAR FOAMED MATERIALS
Examiner: K. Thornton
Art Unit: 1744

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail (EL 789781959US) in an envelope addressed to: Box CPA, Assistant Commissioner for Patents, Washington, D.C. 20231-0002 on August 27, 2001



Assistant Commissioner for Patents
Box CPA
Washington, D.C. 20231-0002

Sir:

LETTER TO EXAMINER THORNTON

This letter is to explain the contents of the materials enclosed herein, as well as the reasons for their submission. Enclosed are the following papers/items:

- 1) Petition for Revival of Application for Patent Abandoned Unintentionally;
- 2) Resubmission of Assent by Assignee for Filing Reissue Application;
- 3) Resubmission of Statement Establishing Right of Assignee to Take Action;
- 4) Copy of Surrender of Original Letters Patent;
- 5) Response to Advisory Action;
- 6) Copy of Petition to accept a reissue application without signature of one inventor;
- 7) Declaration of Facts from Kelvin Okamoto;
- 8) Declaration of Facts from Timothy Oyer;
- 9) Continued Prosecution Application request transmittal; and
- 10) Copy of Amendment after final originally submitted on October 18, 2000.
- 11) Check for \$1,240 to account for fee for papers #1
- 12) Check for \$962.00 to account for fee for papers #10 and #11

The above-referenced application was unintentionally abandoned. The chain of events, (as Applicants' undersigned representative understands them) that led to the abandonment of this application began with a Notice of Allowance and Issue Fee Due for the application being entered into the record. The Notice was diverted from being mailed to Applicants, however, because the Special Reissue Examiner noted one or more alleged deficiencies in either or both the originally-submitted Assent by Assignee for Filing Reissue Application and Statement Establishing Right of Assignee to Take Action. Applicants were made aware of these deficiencies and began to take steps to rectify such deficiencies. Unbeknownst to Applicants, however, as these steps were being taken, the period for payment of the Issue Fee for the application expired, thus resulting in the unintentional abandonment of the application.

Therefore, Applicants herein submit paper #1 (petition for revival of application for patent abandoned unintentionally), resubmit both an Assent by Assignee for Filing Reissue Application and a Statement Establishing Right of Assignee to Take Action (papers #2 and #3) in order to overcome the alleged deficiencies contained in the previously submitted versions of these documents, and also submit a copy of previously-submitted supporting paper #4 in order to seek revival of the unintentionally abandoned application.

In order to expedite prosecution of the application, Applicants also submit within this communication a Continued Prosecution Application request transmittal (paper #9) and ask that this paper immediately be entered immediately upon revival of the application. This, in turn, will allow for entry into the record of papers #5, #6, #7, #8, #9 and #10, which, upon consideration by the Examiner, should once again result in allowance of the application.

Applicants also submit a check for \$1,240.00 (item #11) to account for the fee due for submission of item #1, and a check for \$962.00 (item #12) to account for the fees due upon submission of papers #9 and 10. Applicants hereby authorize that any additional fees beyond those accounted for in items #11 and #12 to be charged to Deposit Account No. 04-1105.

Applicants respectfully request expeditious consideration of the enclosed materials, and earnestly solicit (upon granting of the petition for revival of the application) immediate allowance of the pending claims of the application, which, as noted above, had been indicated as allowable by the Examiner based on the content of papers #5, #6, #7, #8, #9 and #10.

Applicants also invite the Examiner to contact the undersigned attorney in furtherance of the allowance of this application.

Respectfully submitted,

Date: August 27, 2001

By: Richard J. Roos
Richard J. Roos
Reg. No. 45,053

Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL, LLP
P.O. Box 9169
Boston, MA 02209
(617) 439-4444

Practitioner's Docket No. 70257/40535 RE PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Baldwin, et al.

Application No.: 0 8 /692,060

Group No.: 1774

Filed: August 2, 1996

Examiner: K. Thornton

For: SUPERMICROCELLULAR FOAMED MATERIALS

Box DAC

Assistant Commissioner for Patents

Washington, D.C. 20231

ATTENTION: Petition Information

Crystal Park One, Suite 520

(M.P.E.P. Section 1002.02(b), 7th ed.)

PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY
UNDER 37 C.F.R. SECTION 1.137(b)

NOTE: "In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in section 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents." 37 C.F.R. Section 1.137(c).

NOTE: In accordance with the Notice of November 5, 1990 (1121 O.G. 6), an application abandoned under 37 C.F.R. Section 1.53(d) for failure to timely provide the appropriate filing fee, oath or declaration and/or surcharge may be revived under the procedure of 37 C.F.R. Section 1.137(b).

1. This application became abandoned on _____

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. SECTION 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒

deposited with the United States Postal Service with sufficient postage as Express Mail (EL 789781959US) in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

☐

transmitted by facsimile to the Patent and Trademark Office, (703) ____ - ____.

Date: August 27, 2001

Signature

Barbara J. Jinnas

NOTE: Extensions under 37 C.F.R. Section 1.136 are available only if asked for "prior to or with the response." Accordingly, if the question of abandonment arises when the provisions of Section 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival. M.P.E.P. Section 711.03(c), 6th ed., rev. 2.

2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of the petition was unintentional. 37 C.F.R. Section 1.137(b)(3).

3. Response or action required
☐ has been filed.
☒ is attached.

(complete the following, if applicable)

NOTE: The PTO accepts the filing of a continuing application as a response under 37 C.F.R. Section 1.137. To facilitate processing in such a case, the petition to revive should specifically refer to the filing of a continuing application and also include an express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application. Notice of May 13, 1983, (1031 O.G. 11-12). See also M.P.E.P. Section 711.03(c), 6th ed., rev. 2. "In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof." 37 C.F.R. Section 1.137(b)(1).

☒ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

4. Fee (37 C.F.R. 1.17(m))

Application status is:

- ☐ Small business entity-fee \$620.00.
☐ A statement is attached.
☐ A statement was filed.
☒ Other than small entity-fee \$1,240.00.

5. Payment of fee

- ☒ Enclosed please find check for ☐ \$620.00. ☒ \$1,240.00.
☒ Charge Account 04-1105 for any additional fee required.
☐ Charge Account _____ the sum of ☐ \$620.00. ☐ \$1,240.00.
A duplicate of this petition is attached.

(complete the following, if applicable)

- [] *Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. Section 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).*
- [] *Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).*

Date: _____

Signature of person making statement that
abandonment was due to an unintentional delay

(type or print name of person making statement)

Residence of person making statement


SIGNATURE OF PRACTITIONER

Reg. No. 45,053

Richard J. Roos
(type or print name of practitioner)

Tel. No.: (617) 517-5538

P.O. Box 9169

Customer No.: 21874

P.O. Address

Boston, MA 02209

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: D. Baldwin, et al..

EXAMINER: K. Thornton

Serial No.: 08/934,570

Group: 1744

Filed: August 24, 1992

Patent No.: 5,334,356

Issued: August 2, 1994

For: SUPERMICROCELLULAR FOAMED MATERIALS

RESUBMISSION OF ASSENT BY ASSIGNEE FOR FILING REISSUE APPLICATION

This is part of the application for a reissue patent filed herewith based on the original patent identified as follows:

D. Baldwin, et al.

Name of Patentee

5,334,356

Patent Number

August 2, 1994

Date Patent Issued

SUPERMICROCELLULAR FOAMED MATERIALS

Title of Invention

I, Rita Filipowicz, hereby certify that I presently possess the authority to act on behalf of the Massachusetts Institute of Technology by virtue of my title as Patent Administrator of the Technology Licensing Office of the Massachusetts Institute of Technology. In accordance with such authority, and by my signature below, I reiterate the assent of the Massachusetts Institute of Technology, which possessed an undivided interest in U.S. Patent No. 5,334,356 on January 6, 1997, to the application for reissue of that patent, such application having originally been filed on January 8, 1997.


Signature of person signing for assigneeDate: 8/21/01

Practitioner's Docket No. 70257/40535 DIV
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: D. Baldwin, et al..

EXAMINER: K. Thornton

Serial No.: 08/934,570

Group: 1744

Filed: August 24, 1992

Patent No.: 5,334,356

Issued: August 2, 1994

For: SUPERMICROCELLULAR FOAMED MATERIALS

Assistant Commissioner for Patents
Washington, D.C. 20231

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By: 

STATEMENT UNDER 37 C.F.R. § 3.73(b)
ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION

Pursuant to 37 C.F.R. §3.73(b), the assignee of the entire right, title and interest in the above-referenced patent application hereby seeks to take action in the PTO in this matter.

IDENTIFICATION OF ASSIGNEE

2. Massachusetts Institute of Technology

Name of assignee

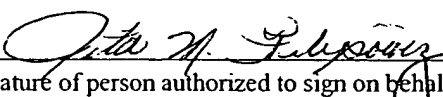
University

Type of assignee, e.g., corporation, partnership, university, government agency, etc.

CHAIN OF TITLE/BASIS OF ASSIGNEE'S INTEREST

Assignee's ownership interest as of January 6, 1997 in the above-referenced patent application is established by:

(1) an assignment (a copy of which is enclosed herein) of rights in the above-referenced patent application directly from its inventors to Massachusetts Institute of Technology, this assignment having been recorded in the United States Patent and Trademark Office on June 3, 1991, at Reel 5738, Frame 0966.


Signature of person authorized to sign on behalf of assignee

8/21/01
Date of signature

Rita Filipowicz
Typed name of person authorized to sign

Patent Administrator
Technology Licensing Office,
Massachusetts Institute of Technology
Typed title of person authorized to sign

D. Baldwin
Patent No. 5,334,356
Page 3 of 3

Date: August 27, 2

By: Richard J. Roos
Richard J. Roos
Reg. No.: 45,053

Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL, LLP
P. O. Box 9169
Boston, MA 02209
Tel. No. (617) 517-5554
Fax No. (617) 439-4170

BOS2_171610.1

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)
(Large Entity)

Docket No.
40,535-RE (70257)

In Re Application Of: **Baldwin, et al.**

Serial No.
08/692,060

Filing Date
August 2, 1996

Examiner
K. Thornton

Group Art Unit
1774

Invention: **SUPERMICROCELLULAR FOAMED MATERIALS**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of _____ in the above-identified application.
Date

The requested extension is as follows (check time period desired):

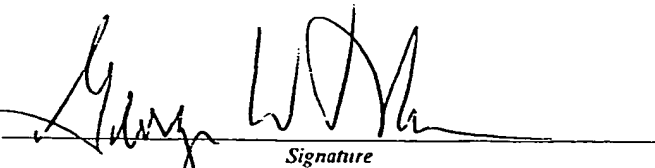
☐ One month ☐ Two months ☒ Three months ☐ Four months ☐ Five months

from: **February 28, 2001**
Date

until: **May 28, 2001**
Date

The fee for the extension of time is **\$890** and is to be paid as follows:

- ☒ A check in the amount of the fee is enclosed.
☐ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **04-1105**
A duplicate copy of this sheet is enclosed.
☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **04-1105**
A duplicate copy of this sheet is enclosed.


Signature

Dated: **May 25, 2001**

George W. Neuner, Esq. (Reg. No. 26,964)
Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL, LLP
P.O. Box 9169
Boston, MA 02209
Telephone: 617/439-4444

I certify that this document and fee is being deposited
May 25, 2001 with the U.S. Postal Service as
first class mail under 37 C.F.R. 1.8 and is addressed to the
Assistant Commissioner for Patents, Washington, D.C.
20231.


Signature of Person Mailing Correspondence

Donna M. Tomaso

Typed or Printed Name of Person Mailing Correspondence

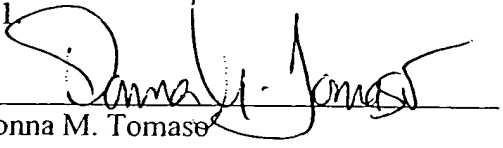
CC:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baldwin et al.
Serial No: 08/692,060
Filed: August 2, 1996
For: SUPERMICROCELLULAR FOAMED MATERIALS
Examiner: K. Thornton
Art Unit: 1744

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231-0002 on May 25, 2001.


Donna M. Tomase

Assistant Commissioner for Patents
Box: AF
Washington, D.C. 20231-0002

Sir:

RESPONSE TO ADVISORY ACTION

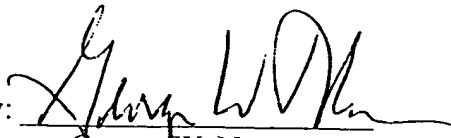
Accompanying the Advisory Office Action dated November 16, 2000, the Interview Summary of the interview on October 30, 2000 indicated that a new declaration and offer to surrender were required for the case to be allowable.

Enclosed herewith is the surrender of the original Letters Patent Number 5,334,356 and a new reissue declaration. Three of the inventors executed the new declaration. However, the fourth inventor has not executed the declaration. A petition under 37 C.F.R. §1.47 to accept the new reissue declaration without the signature of Chul B. Park is also included with supporting declarations establishing the facts showing his refusal to sign the new reissue declaration and a check for \$ 890.00 for the petition fee.

It is requested that the Reissue patent be issued as soon as possible.

Respectfully submitted,

Date: 25 May '01

By: 
George W. Neuner
(Reg. No. 26,964)

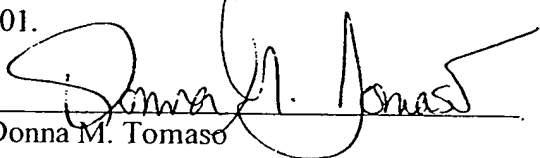
Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
EDWARDS & ANGELL, LLP
P.O. Box 9169
Boston, MA 02209
(617) 439-4444
BOS_314324.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baldwin et al.
Serial No: 08/692,060
Filed: August 2, 1996
For: SUPERMICROCELLULAR FOAMED MATERIALS
Examiner: K. Thornton
Art Unit: 1744

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Donna M. Tomaso

Assistant Commissioner for Patents
Box: AF
Washington, D.C. 20231-0002

Sir:

SURRENDER OF ORIGINAL LETTERS PATENT

Enclosed herewith is the original Letters Patent Number 5,334,356, which is being surrendered for issuance of the Reissue patent with allowable claims as indicated in the interview summary record accompanying the Advisory Action.

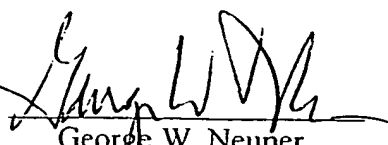
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Respectfully submitted,

Date:

25 May '01

By:


George W. Neuner
(Reg. No. 26,964)

United States Patent [19]
Baldwin et al.



US005334356A

[11] Patent Number: 5,334,356

[45] Date of Patent: Aug. 2, 1994

[54] SUPERMICROCELLULAR FOAMED MATERIALS

[75] Inventors: Daniel F. Baldwin, Medford; Nam P. Suh, Sudbury; Chul B. Park; Sung W. Cha, both of Cambridge, all of Mass.

[73] Assignee: Massachusetts Institute of Technology, Cambridge, Mass.

[21] Appl. No.: 934,570

[22] Filed: Aug. 24, 1992

Related U.S. Application Data

[62] Division of Ser. No. 682,116, Apr. 5, 1991, Pat. No. 5,158,986.

[51] Int. Cl.⁵ C08F 2/00; B28B 1/50; A21D 13/00; B29D 1/00

[52] U.S. Cl. 422/133; 422/137; 422/138; 264/50; 264/53; 264/DIG. 5; 264/DIG. 13; 426/446; 425/4 C

[58] Field of Search 422/131, 133, 134, 135, 422/136, 137, 138; 264/50, 53, DIG. 5, DIG. 13; 426/446; 425/46

[56] References Cited

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Primary Examiner—Robert J. Warden

Assistant Examiner—Christopher Y. Kim

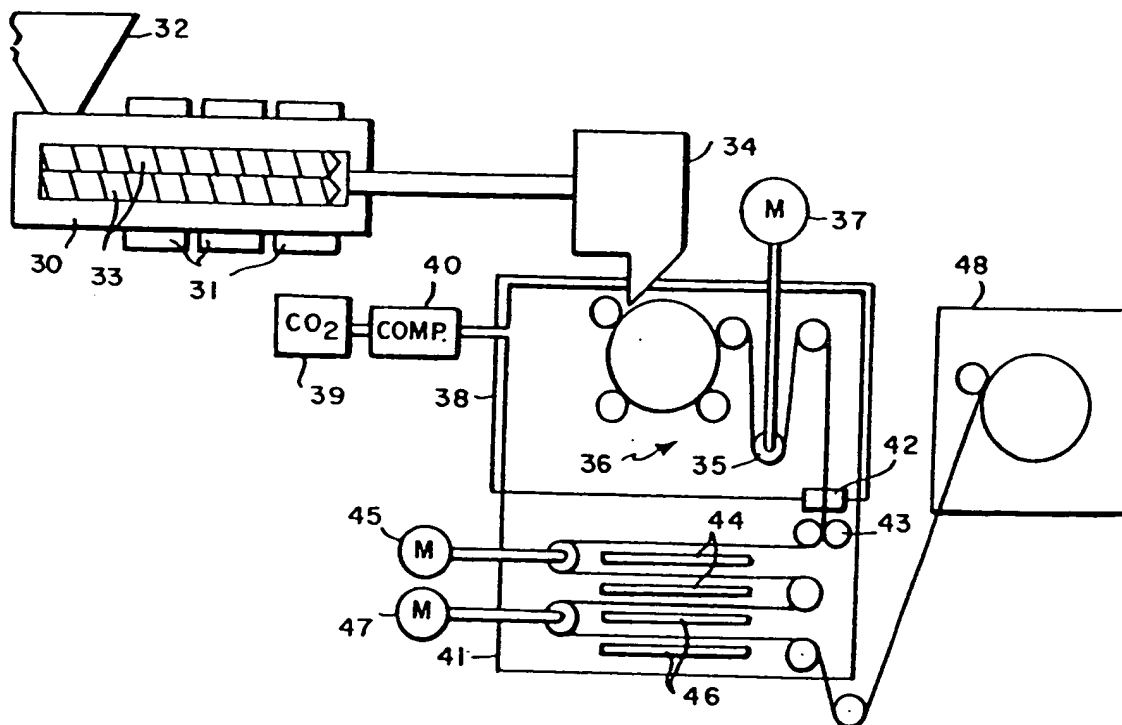
Attorney, Agent, or Firm—Robert F. O'Connell

[57]

ABSTRACT

A supermicrocellular foamed material and a method for producing such material, the material to be foamed such as a polymerplastic material, having a supercritical fluid, such as carbon dioxide in its supercritical state, introduced into the material to form a foamed fluid/material system having a plurality of cells distributed substantially throughout the material. Cell densities lying in a range from about 10^9 to about 10^{15} per cubic centimeter of the material can be achieved with the average cell sizes being at least less than 2.0 microns and preferably in a range from about 0.1 micron to about 1.0 micron.

25 Claims, 10 Drawing Sheets



REISSUE APPLICATION DECLARATION
BY INVENTORS

As one of the below named inventors, I hereby declare that: My residence, post office address and citizenship are as stated below my name; I believe I am an original, and joint inventor of the subject matter which is described and claimed in Letters Patent Number 5,334,356 granted on August 2, 1994 and in the specification attached hereto, entitled SUPERMICROCELLULAR FOAMED MATERIALS and for which invention we solicit a reissue patent.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations § 1.56.

STATEMENT OF INOPERATIVENESS OF ORIGINAL PATENT
37 CFR 1.175

I hereby aver that I believe the original patent to be wholly or partly inoperative or invalid by reason of my claiming less than I had a right to claim in the patent. The errors which are recited herein occurred without any deceptive intent.

All errors being corrected in this reissue application up to the time of filing of this declaration arose without any deceptive intent.

The particular insufficiencies in the claims result because they are not as broad as I believe I am entitled to due to the inclusion of certain limitations related to means for processing of the material such as "means for engaging and transporting said shaped continuous heated material" and "foam heating means for heating said material".

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Inventor's signature

Date

Full name of first or joint inventor:

Daniel F. Baldwin

Citizenship:

United States

Residence:

1044 Longwood Drive
Woodstock, GA 30189

Post Office Address:

1044 Longwood Drive
Woodstock, GA 30189

Jun 08 / 01

Inventor's signature

Date

Full name of second or joint inventor:

Sung W. Cha

Citizenship:

Cha ~~Canada~~ USA

Residence:

Kyungki-Do

Koyang-Si Ilsan-Ku

Juyup-Dong 128

Moonchon 1803-101

SOUTH KOREA, 411-372

Post Office Address:

Kyungki-Do

Koyang-Si Ilsan-Ku

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Moonchon 1803-101

SOUTH KOREA, 411-372

Inventor's signature

Date

Full name of third or joint inventor:

Chul B. Park

Citizenship:

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Residence:

95 Prince Arthur Ave., #521

Toronto, Ontario M5R 3P6

CANADA

Post Office Address:

95 Prince Arthur Ave., #521

Toronto, Ontario M5R 3P6

CANADA

Inventor's signature

Date

Full name of fourth or joint inventor:

Nam P. Suh

Citizenship:

United States

Residence:

34 Maynard Farm Road

Sudbury, MA 01776

Post Office Address:

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Sudbury, MA 01776

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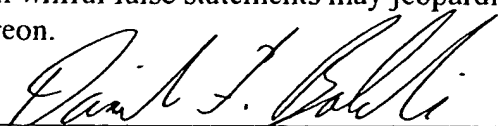
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Inventor's signature



Date

Full name of first or joint inventor:

Daniel F. Baldwin

Citizenship:

United States

Residence:

1044 Longwood Drive
Woodstock, GA 30189

Post Office Address:

1044 Longwood Drive
Woodstock, GA 30189

Inventor's signature

Date

Full name of second or joint inventor: Sung W. Cha
Citizenship: Canada
Residence: Kyungki-Do
Koyang-Si Ilsan-Ku
Juyup-Dong 128
Moonchon 1803-101
SOUTH KOREA, 411-372

Post Office Address: Kyungki-Do
Koyang-Si Ilsan-Ku
Juyup-Dong 128
Moonchon 1803-101
SOUTH KOREA, 411-372

Inventor's signature

Date

Full name of third or joint inventor: Chul B. Park
Citizenship: Canada
Residence: 95 Prince Arthur Ave., #521
Toronto, Ontario M5R 3P6
CANADA

Post Office Address: 95 Prince Arthur Ave., #521
Toronto, Ontario M5R 3P6
CANADA

Inventor's signature

Date

Full name of fourth or joint inventor: Nam P. Suh
Citizenship: United States
Residence: 34 Maynard Farm Road
Sudbury, MA 01776

Post Office Address: 34 Maynard Farm Road
Sudbury, MA 01776

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Inventor's signature

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Residence:

Post Office Address:

Daniel F. Baldwin

United States

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Woodstock, GA 30189

Date

Inventor's signature

Full name of second or joint inventor:

Citizenship:

Residence:

Sung W. Cha

Canada

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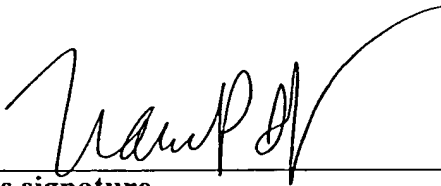
CANADA

Post Office Address:

95 Prince Arthur Ave., #521

Toronto, Ontario M5R 3P6

CANADA

Date

Inventor's signature

Full name of fourth or joint inventor:

Citizenship:

Residence:

Nam P. Suh

United States

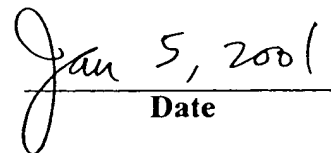
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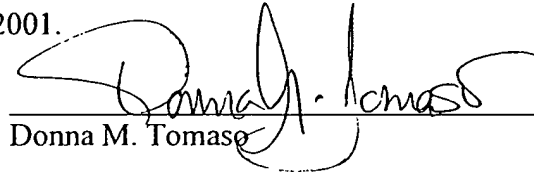
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Baldwin et al.
Serial No: 08/692,060
Filed: August 2, 1996
For: SUPERMICROCELLULAR FOAMED MATERIALS
Examiner: K. Thornton
Art Unit: 1744

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Donna M. Tomaso

Assistant Commissioner for Patents
Box: AF
Washington, D.C. 20231-0002

Sir:

PETITION UNDER 37 C.F.R. §1.47

Accompanying the Advisory Office Action dated November 16, 2000, the Interview Summary of the interview on October 30, 2000 indicated that a new declaration and offer to surrender were required for the case to be allowable. A notice of appeal was filed by mail on December 29, 2000 with Certificate of Mailing to permit time to obtain the signatures of inventors on the new declaration. Three of the inventors executed the new declaration. However, the fourth inventor has not executed the declaration.

This is a petition under 37 C.F.R. §1.47 to accept the declaration executed by the three inventors on behalf of themselves and the non-signing inventor in order to avoid prejudice to the Assignee and its licensee.

A check for the fee of \$130.00 is enclosed, as set forth in 37 C.F.R. §1.17(i).

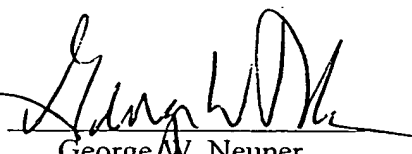
The pertinent facts establishing the refusal by Chul B. Park to sign the reissue declaration are set forth in the accompanying supporting declarations of Timothy J. Oyer, Kelvin T. Okamoto and George W. Neuner. Based on the facts set forth in the supporting declarations, it has been concluded that Chul B. Park has refused to sign the new reissue declaration and relief under 37 C.F.R. §1.47 is requested by the other three inventors, Daniel F. Baldwin, Sung W. Cha and Nam P. Suh, and by the Assignee, the Massachusetts Institute of Technology.

Respectfully submitted,

Date:

25 May '01

By:


George W. Neuner
(Reg. No. 26,964)

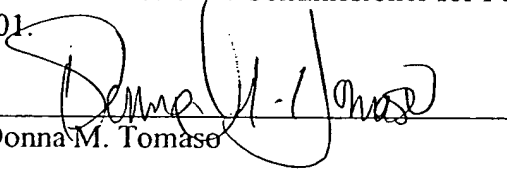
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314287

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Donna M. Tomaso

Assistant Commissioner for Patents
Box: AF
Washington, D.C. 20231-0002

Sir:

**DECLARATION OF FACTS OF GEORGE W. NEUNER
IN SUPPORT OF THE PETITION UNDER 37 C.F.R. §1.47(a)**

I, George W. Neuner, declare as follows:

1. I am attorney of record in the above-identified application and a partner of Edwards & Angell, LLP, 101 Federal Street, Boston, MA 02110. I represent the Massachusetts Institute of Technology, the assignee and owner of the above application.
2. This application is licensed to Trexel, Inc.
3. Timothy J. Oyer, Esq., who represents Trexel, Inc., has assisted me in connection with this application. As such, he coordinated obtaining signatures of the inventors on the new reissue declaration required by the examiner (Exhibit 1).

4. On or about February 14, 2001, I was informed that Mr. Oyer had obtained the signatures of three of the inventors on the new reissue declaration but was having difficulty obtaining the signature of Chul B. Park ("Professor Park").

5. Mr. Oyer provided me with a copy of the new reissue declaration. I reviewed my files but did not have the telephone number for Professor Park. After obtaining that information from Mr. Oyer, I had a telephone conference with Professor Park on February 23, 2000. He told me that he had some questions about the reissue application, that he had discussed the matter with a technology licensing officer (M. Sarca) at the University of Toronto, where he is presently employed, and with a Canadian attorney (T. Lowman). Professor Park said that he had a meeting scheduled with Mr. Lowman and would like copies of the communications with the USPTO for the reissue application so that he could discuss the matter with his attorney. He further asked me to speak to Mr. Sarca and Mr. Lowman.

6. After completing the discussion with Professor Park, I forwarded to him copies of the communications with the USPTO during the reissue examination, as he requested (see copy of my cover letter attached as Exhibit 2). I also called Mr. Sarca and explained that we were requesting Professor Park to execute a new reissue declaration as requested by the U.S. patent examiner. I also called Mr. Lowman and told him that I had spoken with Professor Park, was informed of his representation by counsel, and had sent copies of the communications to Professor Park as he requested so that he could discuss them with his attorney. I asked Mr. Lowman to call me after his meeting with Professor Park so that we could resolve any issues.

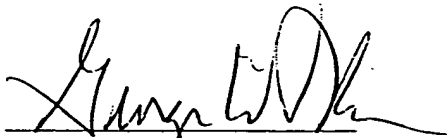
7. Mr. Lowman did not call me. After a couple weeks, I placed calls to Mr. Lowman to determine the status of Professor Park's signing of the reissue declaration. After

many calls, around the end of April, I reached Mr. Lowman and he informed me that he had not yet met with Professor Park. He said he would call Professor Park. I again asked him to call me and let me know the status of this matter. Again, Mr. Lowman has not called.

8. Based on the above facts, I have concluded that professor Park continues to refuse to sign the reissue declaration. I also have concluded that alternative action must be taken to protect the rights of the Massachusetts Institute of Technology and its licensee in this application.

9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Codes, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 25 May '01

By: 
George W. Neuner
(Reg. No. 26,964)

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www.wgslaw.com

Via Federal Express

December 28, 2000

Chul B. Park, Ph.D.
University of Toronto
5 Kings College Road
Toronto, ON M5S3G8
CANADA

RE: U.S. Patent Application Serial No.: 08/692,060
Titled: SUPERMICROCELLULAR FOAMED MATERIALS
Inventor(s): Baldwin et al.
Our File No.: T0428/7012
MIT Ref. No.: 7218
DBR&C Ref. No.: 257/40535 Reissue

SIGNATURE REQUIRED AS SOON AS POSSIBLE

Dear Dr. Park:

Enclosed is a declaration in the above-identified patent application requiring your signature. Please sign the declaration and return it to us by January 12, 2001 in the enclosed Federal Express envelope.

IMPORTANT: Multi-page signature documents **MUST** remain assembled during the entire signature process.

We have also enclosed the claims as pending in the application. Please contact us if you have any questions or comments.

Very truly yours,

WOLF, GREENFIELD & SACKS, P.C.

RHW/TJO/tmh
Enclosure

cc: George W. Neuner, Esq. (w/o encl.)
Stephen F. Brown (w/o encl.)
Dr. Kelvin Okamoto (w/o encl.)

Timothy J. Oyer

Notice of Appeal Due

DIKE, BRONSTEIN, ROBERTS & CUSHMAN
130 Water St. Boston, MA 02108
Date Rec'd 1/2/01
Docketed For Dec. 13 - Dec 29, 2000
By KRD
Approved _____

E X H I B I T 1

JAMES J. FOSTER
EDWARD R. GATES
RICHARD F. GIUNTA
LAWRENCE M. GREEN
GEORGE L. GREENFIELD
THERESE A. HENDRICKS
STEVEN J. HENRY
JASON M. HONEYMAN
RONALD J. KRANSDORF
PETER C. LANDO
MATTHEW B. LOWRIE
WILLIAM R. McCLELLAN
JAMES H. MORRIS
M. LAWRENCE OLIVERIO
TIMOTHY J. OYER
EDWARD F. PERLMAN
E. ROBIN PLUMER
RANDY J. PRITZKER
DAVID WOLF
DOUGLAS R. WOLF

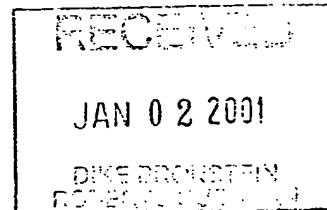
ROBERT M. ABRAHAMSEN
JOHN N. ANASTASI
ILAN D. BARZILAY
CAROLE A. BOELITZ
GARY S. ENGELSON
NEIL P. FERRARO*
THOMAS G. FIELD III
STEPHEN R. FINCH
JAMES M. HANIFIN, JR.
ROBERT E. HUNT**
M. BRAD LAWRENCE
HELEN C. LOCKHART
AMIR REZAIZADEH
ROBERT E. RIGBY, JR.
CHRISTOPHER S. SCHULTZ
ROBERT A. SKRIVANEK, JR.
MARK STEINBERG***
JOHN R. VAN AMSTERDAM
KRISTIN D. WHEELER**
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OF COUNSEL
MICHAEL A. ALBERT
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STANLEY SACKS

TECHNOLOGY SPECIALISTS*
ERIC L. AMUNDSEN*
MARYDILYS ANDERSON
KONSTANTINOS ANDRIKOPOULOS
MARIA T. BAUTISTA
MELISSA A. BEEDE
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ROQUE EL-HAYEK
IBRAHIM HALLAJ
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MICHAEL J. POMLANEK*
MICHAEL N. RADER
EDWARD J. RUSSAVAGE*
ALAN W. STEELE*
JOSEPH TEJA, JR.*
MARIA A. TREVISAN
ROBERT H. WALAT*

LAW CLERK*
CHERYL A. CLARKIN

* NOT ADMITTED TO ANY BAR
* REGISTERED PATENT AGENTS
* ADMITTED ONLY IN MICHIGAN
** ADMITTED ONLY IN VIRGINIA
*** ADMITTED ONLY IN CONNECTICUT



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Via Federal Express

December 28, 2000

Prof. Nam P. Suh, Department Head
Department of Mechanical Engineering
Massachusetts Institute of Technology
77 Massachusetts Avenue, Room 3-173
Cambridge, Massachusetts 02139

RE: U.S. Patent Application Serial No.: 08/692,060
Titled: SUPERMICROCELLULAR FOAMED MATERIALS
Inventor(s): Baldwin et al.
Our File No.: T0428/7012
MIT Ref. No.: 7218
DBR&C Ref. No.: 257/40535 Reissue

SIGNATURE REQUIRED AS SOON AS POSSIBLE

Dear Prof. Suh:

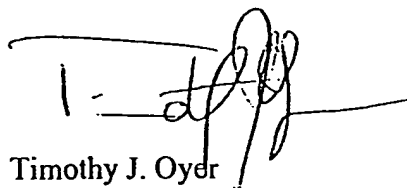
Enclosed is a declaration in the above-identified patent application requiring your signature. Please sign the declaration and return it to us by January 12, 2001 in the enclosed Federal Express envelope.

IMPORTANT: Multi-page signature documents **MUST** remain assembled during the entire signature process.

We have also enclosed the claims as pending in the application. Please contact us if you have any questions or comments.

Very truly yours,

WOLF, GREENFIELD & SACKS, P.C.


Timothy J. Oyer

RHW/TJO/tmh

Enclosure

cc: George W. Neuner, Esq. (w/o encl.)
Stephen F. Brown (w/o encl.)
Dr. Kelvin Okamoto (w/o encl.)

JAMES J. FOSTER
EDWARD R. GATES
RICHARD F. GIUNTA
LAWRENCE M. GREEN
GEORGE L. GREENFIELD
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STEVEN J. HENRY
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KRISTIN D. WHEELER**
LISA E. WINSOR

OF COUNSEL
MICHAEL A. ALBERT
WILLIAM G. GOSZ
STANLEY SACKS

TECHNOLOGY SPECIALISTS*
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MARYDILYS ANDERSON
KONSTANTINOS ANDRIKOPOULOS
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ROBERT H. WALAT*

LAW CLERK*
CHERYL A. CLARKIN

* NOT ADMITTED TO ANY BAR
* REGISTERED PATENT AGENTS
* ADMITTED ONLY IN MICHIGAN
* ADMITTED ONLY IN VIRGINIA
*** ADMITTED ONLY IN CONNECTICUT

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DIKE BRONSTEIN
ROBERTS CUSHMAN

Wolf, Greenfield & Sacks, P.C.

Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210
Tel +1 617-720-3500
Fax +1 617-720-2441
www.wgslaw.com

Via Federal Express

December 28, 2000

Sung W. Cha, Ph.D.
Dept. of Mechanical Engineering
Yonsei University
134 Shinchon-Dong, Seodaemun-Ku
Seoul 120-749
KOREA

RE: U.S. Patent Application Serial No.: 08/692,060
Titled: SUPERMICROCELLULAR FOAMED MATERIALS
Inventor(s): Baldwin et al.
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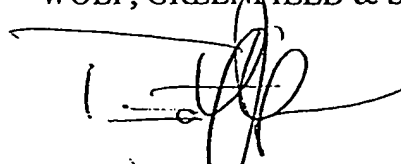
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Stephen F. Brown (w/o encl.)
Dr. Kelvin Okamoto (w/o encl.)

501923.1

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Wolf, Greenfield & Sacks, P.C.

Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210
Tel +1 617-720-3500
Fax +1 617-720-2441
www.wgslaw.com

Via Federal Express

December 28, 2000

Daniel F. Baldwin, Ph.D.
1044 Longwood Drive
Woodstock, GA 30189

RE: U.S. Patent Application Serial No.: 08/692,060
Titled: SUPERMICROCELLULAR FOAMED MATERIALS
Inventor(s): Baldwin et al.
Our File No.: T0428/7012
MIT Ref. No.: 7218
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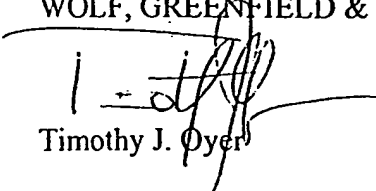
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JAN 02 2001

D. KEENE J. OYER
ROBERTS CUSHMAN

gneuner@ealaw.com

February 23, 2001

Professor Chul B. Park
Director, Microcellular Plastics Manufacturing Laboratory
Department of Mechanical and Industrial Engineering
University of Toronto
5 King's College Road
Toronto, Ontario
Canada M5S 3G8

Re: U.S. Reissue Application No. 08/692,060
US Patent No. 5,334,356
Our file: 70257/40535RE

Dear Professor Park:

It was a pleasure talking to you today. In accord with your request, I am
Enclosing copies of the communications with the US Patent Office.

Please consult with your attorney and have him call me with any questions.

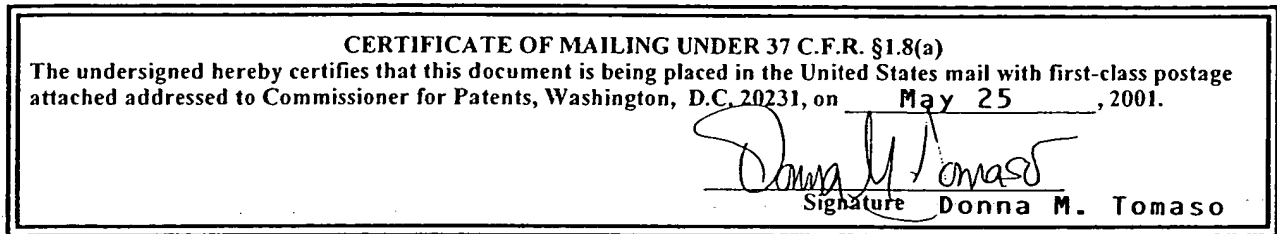
Very truly yours,

George W. Neuner

GWN/dab
Encl.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Baldwin et al.
Serial No. : 08/692,060
Filing Date : August 2, 1996
For : SUPERMICROCELLULAR FOAMED MATERIALS



Commissioner for Patents
Washington, D. C. 20231

**DECLARATION OF FACTS OF KELVIN T. OKAMOTO
IN SUPPORT OF THE PETITION UNDER 37 C.F.R. §1.47(a)**

Dear Sir:

I, Dr. Kelvin T. Okamoto, declare as follows:

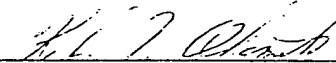
1. I am employed by Trexel, Inc., a Massachusetts corporation having a place of business at 45 Sixth Road, Woburn, MA 01801, as the Director of Intellectual Property. In this capacity, I coordinate patent matters for Trexel, Inc.
2. Chul B. Park (Dr. Park) has refused to join in the above-identified patent application, i.e., has refused to sign the Reissue Application Declaration (Declaration). I base this conclusion on the following facts.
3. On or around January 5, 2001, I left a voice mail message with Dr. Park regarding his signing the Declaration. Dr. Park did not respond to my voice mail message and to my knowledge did not sign the Declaration. On or around April 10, 2001, I spoke with Dr. Park who indicated that he had received the Declaration but that he did not intend to sign the Declaration.
4. On the basis of the above facts, I conclude not only that Dr. Park has expressly orally refused to join in the above-identified application, but that his accompanying conduct, based on facts set forth above in conjunction with facts set forth in an accompanying Declaration of Facts by Timothy J. Oyer, Esq. filed on even date herewith in this application, constitutes a

refusal to join in this application.

5. Accordingly, it is requested the accompanying Petition under 37 C.F.R. §1.47(a) be accepted and that the application be considered duly filed without the signature of Dr. Park as he has indicated by his act and deed his refusal to sign the Declaration in connection with this application.

I hereby declare that all statements made herein are of my own knowledge and are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent which may issue thereon.

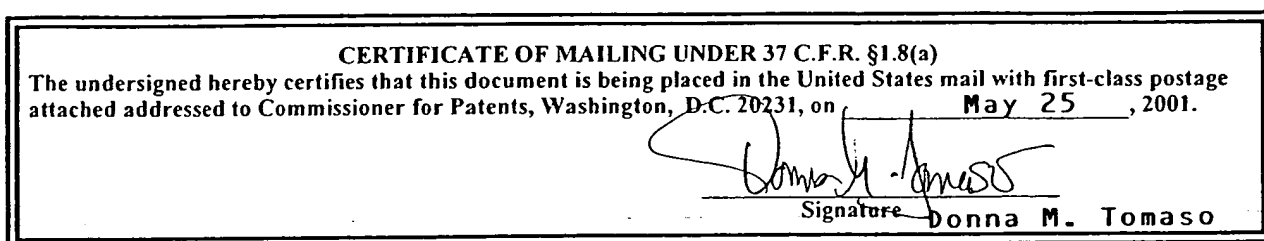
Executed on May 21, 2001.



Dr. Kelvin T. Okamoto

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Baldwin et al.
Serial No. : 08/692,060
Filing Date : August 2, 1996
For : SUPERMICROCELLULAR FOAMED MATERIALS



Commissioner for Patents
Washington, D. C. 20231

**DECLARATION OF FACTS OF TIMOTHY J. OYER
IN SUPPORT OF THE PETITION UNDER 37 C.F.R. §1.47(a)**

Dear Sir:

I, Timothy J. Oyer Esq., declare as follows:

1. I am a partner of Wolf, Greenfield and Sacks, P.C., 600 Atlantic Avenue, Boston, MA 02210. I am a counsel of record in the above-identified application. Wolf, Greenfield and Sacks, P.C. represents Trexel, Inc., the exclusive licensee of the above-identified patent application, in intellectual property matters including patent prosecution matters. I supervise the representation of Trexel, Inc. and have coordinated obtaining signatures on Declarations for Patent Application in the above-identified application per agreement between MIT, the assignee of this application, and licensee Trexel, Inc.

2. Chul B. Park (Dr. Park) has refused to join in the above-identified patent application, i.e., has refused to sign the Reissue Application Declaration (Declaration). I base this conclusion on the following facts.

3. On December 28, 2000, I sent the Declaration documents, along with the claims as presently pending, in the above-identified patent application to Dr. Park at the University of Toronto, 5 Kings College Road, Toronto, Ontario M5S3G8 Canada, along with a letter asking Dr. Park to sign and return the Declaration to us by January 12, 2001. Dr. Park already had a

copy of the specification of the above-identified application by virtue of the specification being identical to that of issued U.S. pat. no. 5,334,356, naming Dr. Park as an inventor, which the above-identified application seeks to re-issue.

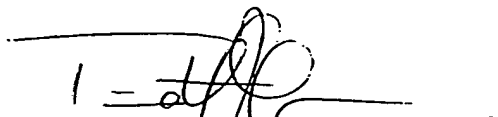
4. Between about January 1, 2001 and February 15, 2001, I received at least two voice mail messages from Dr. Park regarding the Declaration, left at least two voice mail messages for Dr. Park regarding the Declaration, and spoke on the phone with Dr. Park at least one time regarding the Declaration. In one or more of the communications, Dr. Park indicated that he had received the Declaration, and had read the specification (identical to issued U.S. pat. no. 5,334,356, which the above-identified application seeks to re-issue). At no time during any of the communications did Dr. Park indicate that he would sign and return the Declaration.

5. On the basis of the above facts, in conjunction with the facts set forth in an accompanying Declaration of Facts by Dr. Kelvin Okamoto filed on even date herewith in this application, I conclude that the conduct of Dr. Park constitutes a refusal to join in this Declaration.

6. Accordingly, it is requested that the accompanying Petition under 37 C.F.R. §1.47(a) be accepted and that the application be considered duly filed without the signature of Dr. Park as he has indicated by his act and deed his refusal to sign the Declaration in connection with this application.

I hereby declare that all statements made herein are of my own knowledge and are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent which may issue thereon.

Executed on MAY 21, 2001.



Timothy J. Oyer, Esq.

**CONTINUED PROSECUTION APPLICATION (CPA)
REQUEST TRANSMITTAL (Large Entity)**

Submit an original, and a duplicate for fee processing.

(Only for Continuation or Divisional Applications Under 37 CFR 1.53(d))

Docket No.

70257/40535 RE

☐ **DUPLICATE** (Check box if applicable)

First Named Inventor

Examiner

Group/Art Unit

Baldwin, et al.

Krisanna Thornton

1744

Address to:

Assistant Commissioner for Patents

Box CPA

Washington, D.C. 20231

This is a request for filing a ☒ continuation, or ☐ divisional application under 37 CFR 1.53(d), (continued prosecution application (CPA)) of prior application number 08/692,060 filed on August 2, 1996 and entitled:

SUPERMICROCELLULAR FOAMED MATERIALS

1. ☒ Enter the unentered amendment previously filed on October 18, 2000 under 37 CFR 1.116 in the prior nonprovisional application.
2. ☐ A preliminary amendment is enclosed.
3. ☐ This application is being filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ **DELETE** the following inventor(s) named in the prior nonprovisional application:
 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent is enclosed.
5. ☐ An Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations
6. ☒ The fee for this application is calculated as follows:

CLAIMS AS FILED

For	#Filed	#Allowed	#Extra	Rate	Fee
Total Claims	34	- 20 =	14	x \$18.00	\$252.00
Indep. Claims	2	- 3 =	0	x \$80.00	\$0.00
Multipl Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
BASIC FEE					\$710.00
TOTAL FILING FEE					\$962.00

CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL (Large Entity)
(Only for Continuation or Divisional Applications Under 37 CFR 1.53(d))

7. ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees to
Deposit Account No. 04-1105

- ☒ fees required under 37 C.F.R. 1.16.
- ☒ fees required under 37 C.F.R. 1.17.
- ☒ fees required under 37 C.F.R. 1.18.

8. ☒ A check in the amount of \$962.00 is enclosed.

9. ☒ Also enclosed:
Amendment After Final Under 37 C.F.R. 1.116

10. ☒ The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below:

CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL (Larg Entity)
(Only for Continuation or Divisional Applications Under 37 CFR 1.53(d))

NOTES

Submit an original, and a duplicate for fee processing.

FILING QUALIFICATIONS: The prior application must be a nonprovisional application that is either (1) complete as defined by 37 C.F.R. 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. A Notice will be placed on a patent issuing from a CPA, except for reissues and designs, to the effect that the patent issued on a CPA and is subject to the twenty-year patent term provisions of 35 USC 154(a)(2). Therefore, the prior application of a CPA may have been filed before, on or after June 8, 1995.

C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 C.F.R. 1.53(d), but must be filed under 37 C.F.R. 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 C.F.R. 1.53(b) must be used to file a continuation, divisional or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the Applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 C.F.R. 1.14 to access to copies of, or information concerning, the prior application may be given similar access to copies of, or similar information concerning, the other application or application in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request. 37 C.F.R. 1.78(a).

Dated: August 27, 2001


Signature

Richard J. Roos

Typed or printed name

45,053

Registration Number (if applicable)

- ☐ Inventor(s)
☐ Assignee of complete interest
☒ Attorney or agent of record

cc:

COMMISSION Commissioner of Patents & Trademarks

Invoice No.	Invoice Date	Description	Invoice Amount	Discount	Payment Amount
70257.40535/08	08/24/2001	for PTO codes 101, 103	\$962.00	\$0.00	\$962.00



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

11/30/2001

ERNEST V LINEK
DIKE BRONSTEIN ROBERTS & CUSHMAN
130 WATER STREET
BOSTON, MA 021094280

EXAMINER

THORNTON, KRISANNE MARIE

ART UNIT

CLASS-SUBCLASS

1744

422-133000

DATE MAILED: 11/30/2001

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/692,060	08/02/1996	DANIEL F. BALDWIN	T0428/7012	3084

TITLE OF INVENTION: SUPERMICROCELLULAR FOAMED MATERIALS

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
37	nonprovisional	NO	\$1280	\$0	\$1280	02/28/2002

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.

PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above. If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

B. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

RECEIVED

DEC 11 2001

Application No.

08/692,060

Examiner

Krisanne M. Thornton

Applicant(s)

BALDWIN ET AL.

Art Unit

1744

Notice of Allowability

EDWARDS & ANGELL LLP
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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the request for the CPA including the resubmission of Assent by Assignee, and Est of Right.
2. ☒ The allowed claim(s) is/are 35-37, 39-68 and 74-77 (now renumbered 26-62 respectively).
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.


9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

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Docketed For 100 30, 2002-1-26-28, 2002


KRISANNE THORNTON
PRIMARY EXAMINER



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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08/692,060

08/02/1996

DANIEL F. BALDWIN

T0428/7012

3084

7590

11/30/2001

EXAMINER

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ART UNIT

PAPER NUMBER

1744

DATE MAILED: 11/30/2001

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The patent term adjustment to date is 0 days. If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the term adjustment will be 0 days.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)